

Senate File 2075 - Introduced

SENATE FILE 2075

BY SODDERS

A BILL FOR

1 An Act relating to the issuance of citations for violations of
2 requirements for motorists approaching a stationary towing
3 or recovery vehicle.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.323A, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. The operator of a motor vehicle approaching a ~~stationary~~
4 ~~towing or recovery vehicle~~, a stationary utility maintenance
5 vehicle, a stationary municipal maintenance vehicle, or a
6 stationary highway maintenance vehicle, that is displaying
7 flashing yellow, amber, or red lights, shall approach the
8 vehicle with due caution and shall proceed in one of the
9 following manners, absent any other direction by a peace
10 officer:

11 a. Make a lane change into a lane not adjacent to the
12 ~~towing, recovery~~, utility maintenance, municipal maintenance,
13 or highway maintenance vehicle if possible in the existing
14 safety and traffic conditions.

15 b. If a lane change under paragraph "a" would be impossible,
16 prohibited by law, or unsafe, reduce the speed of the motor
17 vehicle to a reasonable and proper speed for the existing road
18 and traffic conditions, which speed shall be less than the
19 posted speed limit, and be prepared to stop.

20 Sec. 2. Section 321.323A, Code 2011, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 3. The operator of a motor vehicle
23 approaching a stationary towing or recovery vehicle that
24 is displaying flashing yellow, amber, or red lights, shall
25 approach the vehicle with due caution and shall proceed in one
26 of the following manners, absent any other direction by a peace
27 officer:

28 a. Make a lane change into a lane not adjacent to the towing
29 or recovery vehicle if possible in the existing safety and
30 traffic conditions.

31 b. If a lane change under paragraph "a" would be impossible,
32 prohibited by law, or unsafe, reduce the speed of the motor
33 vehicle to a reasonable and proper speed for the existing road
34 and traffic conditions, which speed shall be less than the
35 posted speed limit, and be prepared to stop.

1 Sec. 3. NEW SECTION. 321.323B Prompt investigation of
2 reported violation when approaching a stationary towing or
3 recovery vehicle — citation issued to driver or owner.

4 1. The driver of a towing or recovery vehicle who observes
5 a violation of section 321.323A, subsection 3, may prepare a
6 written report on a form provided by the department of public
7 safety indicating that a violation has occurred. The driver
8 of the towing or recovery vehicle or the driver's employer may
9 deliver the report not more than seventy-two hours after the
10 violation occurred to a peace officer of the state or a peace
11 officer of the county or municipality in which the violation
12 occurred. The report shall state the time and the location at
13 which the violation occurred and shall include the registration
14 plate number and a description of the vehicle involved in the
15 violation.

16 2. Not more than seven calendar days after receiving a
17 report of a violation of section 321.323A, subsection 3, from
18 a driver of a towing or recovery vehicle or the driver's
19 employer, the peace officer shall initiate an investigation
20 of the reported violation and contact the owner of the motor
21 vehicle involved in the reported violation and request that the
22 owner supply information identifying the driver in accordance
23 with section 321.484.

24 *a.* If, from the investigation, the peace officer is able
25 to identify the driver and has reasonable cause to believe a
26 violation of section 321.323A, subsection 3, has occurred, the
27 peace officer shall prepare a uniform traffic citation for the
28 violation and shall serve it personally or by certified mail
29 to the driver of the vehicle.

30 *b.* If, from the investigation, the peace officer has
31 reasonable cause to believe that a violation of section
32 321.323A, subsection 3, occurred but is unable to identify
33 the driver, the peace officer shall serve a uniform traffic
34 citation for the violation to the owner of the motor vehicle.
35 Notwithstanding section 321.484, in a proceeding where the

1 peace officer who conducted the investigation was not able
2 to identify the driver of the motor vehicle, proof that the
3 motor vehicle described in the uniform traffic citation was
4 used to commit the violation of section 321.323A, subsection 3,
5 together with proof that the defendant named in the citation
6 was the owner of the motor vehicle at the time the violation
7 occurred, constitutes a permissible inference that the owner
8 was the driver who committed the violation.

9 c. For purposes of this subsection, "owner" means a person
10 who holds the legal title to a motor vehicle; however, if the
11 motor vehicle is the subject of a security agreement with a
12 right of possession in the debtor, the debtor shall be deemed
13 the owner for purposes of this subsection, or if the motor
14 vehicle is leased as defined in section 321.493, the lessee
15 shall be deemed the owner for purposes of this subsection.

16 EXPLANATION

17 Under current law, the driver of a motor vehicle, when
18 approaching a stationary towing or recovery vehicle displaying
19 flashing yellow, amber, or red lights, is required to move into
20 another lane not adjacent to the towing or recovery vehicle.
21 If a lane change is not possible or is unlawful or unsafe, the
22 driver is required to slow the motor vehicle to a reasonable
23 and proper speed for the existing road and traffic conditions,
24 below the posted speed limit, and be prepared to stop.

25 This bill provides that the driver of a towing or recovery
26 vehicle who observes a motor vehicle failing to move over or
27 slow down when approaching the towing or recovery vehicle
28 may make a written report to a peace officer of the state or
29 of the county or municipality where the violation occurred,
30 stating the time and location of the violation, and including
31 the registration plate number and a description of the vehicle
32 involved in the incident. The report may be delivered by the
33 driver or the driver's employer within 72 hours of the alleged
34 violation. The peace officer shall initiate an investigation
35 within seven days and contact the owner of the motor vehicle

1 involved in the reported violation, requesting that the owner
2 identify the driver involved in the violation. If the peace
3 officer has reasonable cause to believe that a violation
4 occurred and learns the identity of the driver involved in
5 the violation, the peace officer may issue a citation to the
6 driver, either in person or by certified mail.

7 The bill provides that if the identity of the driver involved
8 in the violation cannot be determined, the peace officer
9 investigating the report may issue a citation to the owner
10 of the vehicle. In a proceeding where the peace officer was
11 not able to identify the driver of the vehicle, proof that
12 the vehicle described in the citation was used to commit
13 the violation, together with proof that the person named in
14 the citation was the registered owner of the vehicle at the
15 time the violation occurred, creates a permissible inference
16 that the registered owner was the driver who committed the
17 violation.